



The LSO subsequently issued a Letter of Interrogatory (LOI) to the Individual. The Individual submitted his response to the LOI on April 17, 2023. Ex. 6 at 9. In his response, the Individual stated: “I have a very strong fear of getting mail” which he further described as “a constant for me.” Ex. 6 at 1. The Individual further reported that his fear of getting mail had caused his mail service to be suspended at times and had caused him “to miss several communications that pertain to my work and personal life.” Ex. 6 at 3. The Individual stated that he had parked an inoperative motor vehicle in his driveway for two years, which led to him being charged with violating a local ordinance. Ex. 6 at 5. The Individual paid \$200 in fines for his violations. Ex. 6 at 5. He subsequently had the motor vehicle towed from his property. Ex. 6 at 6. The Individual further reported that he was not currently receiving treatment for any mental health issues. Ex. 6 at 1. The Individual stated he copes with his anxiety about his mailbox by mentally bracing himself and baring it. Ex. 6 at 4.

After receiving the Individual’s LOI response, the LSO requested that he undergo an evaluation by a DOE-contracted psychiatrist (Psychiatrist), who conducted a clinical interview (CI) of the Individual on June 14, 2023. Ex. 7 at 1; Tr. at 20. The Psychiatrist subsequently issued a report of his finding (the Report) on July 5, 2023. Ex. 7 at 15. In addition to conducting the CI, the Psychiatrist administered two standardized psychological screening tests, the Shipley-2 (a rapid IQ test), the “PAI Plus” (a general personality assessment with validity scales and proposed Diagnostic and Statistical Manual (DSM-5) diagnoses). Ex. 7 at 3–4. The Individual also underwent a urine drug screen and a Phosphatidylethanol (PEth) laboratory test to detect alcohol consumption. Ex. 7 at 4. The Individual’s urine screening test was negative. Ex. 7 at 7. The Individual’s PEth test result was positive, indicating that he had recently used alcohol. Ex. 7 at 7. The Psychiatrist opined that the Individual’s PEth level, 172 ng/mL, suggested that he was consuming large amounts of alcohol. Ex. 7 at 7.

The Psychiatrist reviewed the Individual’s medical records and determined that the Individual had a significant history of substance abuse, having engaged in heavy alcohol and stimulant use until 1995, when he stopped using alcohol and stimulants after receiving treatment. Ex. 7 at 4. The Individual began attending Alcoholics Anonymous (AA) in 1995 and continued doing so for 18 or 19 years. Ex. 7 at 4, 7. However, during the CI, the Individual reported he has resumed alcohol use, indicating that he would often consume six to ten beers over a weekend two to three times a month. Ex. 7 at 6, 8. The Individual also reported that he had been experiencing “panic attacks” when going to the mailbox. Ex. 7 at 11. The Individual claimed that “his anxiety about his mailbox started during a labor strike when he allegedly received ‘plant mailings’ that included threats to lose his clearance, to lose his badge, that their insurance would be canceled, and the strike would be broken.” Ex. 7 at 11. The Individual reported that he can still go up to two weeks without checking his mail. Ex. 7 at 11.

The Psychiatrist concluded that the Individual met the criteria for Social Anxiety Disorder (SAD), and Alcohol Use Disorder (AUD), Mild set forth in the DSM-5-Text Revision (DSM-5-TR). Ex. 7 at 13. He further opined that the Individual’s SAD impairs the Individual’s judgment, reliability, and trustworthiness, that it contributes to his AUD, and that the Individual’s “prognosis is not favorable if he continues to drink at the current level or more.” Ex. 7 at 14.

In order to treat his AUD, the Psychiatrist recommended that the Individual: rejoin AA; attend three AA meetings a week; work the AA 12-step program with a sponsor; abstain from alcohol use for 12 months; participate in his employer's employee assistance program; and obtain treatment for his anxiety. Ex. 7 at 15. The Psychiatrist further recommended that the Individual undergo PEth testing and random alcohol breath testing. Ex. 7 at 15.

After receiving the Report, the LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual informing him that he was entitled to a hearing before an Administrative Judge to resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

On October 18, 2023, the Individual submitted his request for a hearing. Ex. 2 at 1. The LSO forwarded his request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), I took testimony from two witnesses: the Individual and the Psychiatrist. *See* Transcript of Hearing, Case No. PSH-24-0012 (hereinafter cited as "Tr."). The LSO submitted nine exhibits, marked as Exhibits 1 through 9. The Individual did not submit any exhibits.

## **II. The Notification Letter and the Associated Security Concerns**

The Summary of Security Concerns (SSC) attached to the Notification Letter informed the Individual that information in the possession of the DOE created substantial doubt concerning his eligibility for a security clearance under Guidelines G (Alcohol Consumption) and I (Psychological Conditions).

Under Guideline G, the LSO cites the Psychiatrist's conclusion that the Individual meets the DSM-5-TR's criteria for AUD, Mild. This information adequately justifies the LSO's invocation of Guideline G. Under Guideline G, "[e]xcessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness." Adjudicative Guidelines at ¶ 21. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern are "diagnosis by a duly qualified . . . Psychiatrist . . . of alcohol disorder." Adjudicative Guidelines at ¶ 22(d).

Under Adjudicative Guideline I, the LSO cites the Psychiatrist's conclusions that the Individual meets the DSM-5-TR's criteria for SAD, which in the clinical opinion of the Psychiatrist, impairs his judgment, reliability, and trustworthiness. This allegation adequately justifies the LSO's invocation of Guideline I. The Adjudicative Guidelines state: "[c]ertain emotional, mental, or personality conditions can impair judgement, reliability, or trustworthiness." Adjudicative Guidelines at ¶ 27. Among those conditions set forth under Guideline I that could raise a disqualifying security concern is "[a]n opinion by a duly qualified mental health professional that the individual has a condition that may impair judgement, stability, reliability or trustworthiness." Adjudicative Guidelines at ¶ 28(b).

### III. Regulatory Standards

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

### IV. Hearing Testimony

At the hearing, the Individual testified that the only treatment he has received for his alcohol issues occurred in 1995. Tr. at 11. He then indicated that he received treatment in early 2000. Tr. at 11. The Individual admitted that he had not followed any of the recommendations made by the Psychiatrist in the Report. Tr. at 12–13. Nor is the Individual receiving counseling for any other issues. Tr. at 13. When the Individual was asked if he had any disagreements with the Psychiatrist's conclusions, the Individual first testified: "Scientifically, no" but then stated that he did not agree with the diagnoses. Tr. at 14. The Individual admitted he is drinking regularly but does not believe that his use of alcohol is problematic. Tr. at 14–17. The Individual testified that he drinks beer on three or four nights a week, and that he consumes two to four beers a night. Tr. at 17–18. The Individual further testified that he expects to consume from six to 14 beers during the upcoming weekend. Tr. at 18. When asked why he does not believe his present alcohol use is problematic the Individual testified:

Because the reasons why I partake or I drink now and to the extent that I drink now is nothing comparable to what it was when I went into treatment back in my mid-20s. My behavior, my reasons, my triggers are nothing comparable to what it was back then. I do not drink to the excess that I used to.

Tr. at 15. The Individual further testified:

When I made my decision ultimately that I wanted to drink again, I did that consciously, knowing that it was a risk. I went into that, and I do not experience the

problems that I had back in my 20s. I do not drink to the point of uncontrolled drinking. I bring it back to that. I do not have the wish or the negative motivation to change differently. When I – when I quit drinking was because extreme circumstances. I knew my life was in jeopardy. I made that decision on my own. I had nobody telling me or suggesting that I had a problem or that I needed help. I did that on my own. I did that almost 30 years ago. And I’m 30 years more mature today, knowing that I have those options, I’ve learned those lessons. I’ve never forgotten that. I know what the – the fear is or the risk.

Tr. at 16. The Individual further testified that he has no fear of leaving his house, but rather his “fear is going to the mailbox because of what I associate with what happened during the labor dispute.” Tr. at 35–36.

The Psychiatrist testified at the hearing after observing the testimony of the Individual. He noted that the Individual had not complied with any of the Report’s recommendations. Tr. at 22. The Psychiatrist diagnosed the Individual with AUD because he had discontinued his AA participation and had begun using alcohol again after 19 years of sobriety. Tr. at 23. Moreover, the Psychiatrist noted, the Individual’s current drinking was somewhat heavy, significant, and regular. Tr. at 23–24. The Psychiatrist noted that AUD is a progressive disease and that the Individual’s decision to resume alcohol use puts him at risk. Tr. at 26–27. He opined that the Individual’s SAD was exacerbated by his alcohol use. Tr. at 27.

The Psychiatrist noted that he diagnosed the Individual with SAD because the nature of the Individual’s worries about what might happen if he went to his mailbox were out of proportion to what seemed to be actually happening, and that “his expectation of harm was much, much greater than it seemed to be in reality . . . .” Tr. at 33.

## **V. Analysis**

Even after he received the Report, the Individual did not take any action to mitigate the security concerns raised by the Report. Nor has he presented any evidence contradicting the Report’s conclusions. Instead, he argues that he is sufficiently aware of the risks posed by alcohol use to allow him to continue using alcohol despite his past and that he can manage his anxiety by willing himself to visit his mailbox by mentally bracing himself and baring his anxiety. The Individual’s active and presently untreated mental health and substance abuse disorders raise serious concerns about the Individual’s judgement and reliability. Moreover, in failing to address these disorders, despite their obvious legal, personal, and occupational consequences, the Individual is exhibiting markedly poor judgment.

### **A. Guideline G**

The Adjudicative Guidelines set forth four factors that may mitigate security concerns under Guideline G. First, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if they can show “so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or judgment.” Adjudicative

Guidelines at ¶ 23(a). In the present case, the evidence shows that the Individual problematic alcohol consumption continues to occur. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 23(a).

Second, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if “[t]he individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.” Adjudicative Guidelines at ¶ 23(b). In the present case, the Individual has not acknowledged the problematic nature of his drinking and has taken no recent actions to address his present problem. Moreover, the Individual receives no formal support and continues to use alcohol. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 23(b).

Third, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if “the individual is participating in counseling or a treatment program, has no previous history of treatment and relapse and is making satisfactory progress in a treatment program.” Adjudicative Guidelines at ¶ 23(c). In the present case, the Individual is not participating in counseling or a treatment program to address his problematic alcohol consumption and has a history of relapsing after treatment. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 23(c).

Fourth, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if “the individual has successfully completed a treatment program along with any required aftercare and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.” Adjudicative Guidelines at ¶ 23(d). While the Individual completed an intensive treatment program in 1995, he continues to use alcohol. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 23(d).

I therefore find that the security concerns raised by the LSO under Guideline G have not been resolved.

## **B. Guideline I**

The Adjudicative Guidelines set forth five factors that may mitigate security concerns under Guideline I. First, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline I if they can show that “the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan.” Adjudicative Guidelines at ¶ 29(a). While the Individual’s SAD may well be controllable with treatment, the Individual is not receiving any treatment for his SAD. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 29(a).

Second, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline I “if the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment and the individual is currently receiving counseling or

treatment with a favorable prognosis by a duly qualified mental health professional.” Adjudicative Guidelines at ¶ 29(b). While the Individual’s SAD is likely amenable to treatment, the Individual is not currently receiving any treatment for his SAD. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 29(b).

Third, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline I if a “recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual’s previous condition is under control or in remission and has a low probability of recurrence or exacerbation.” Adjudicative Guidelines at ¶ 29(c). In the present case, there is no evidence of such an opinion in the record. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 29(c).

Fourth, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline I if “the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indication of emotional instability.” Adjudicative Guidelines at ¶ 29(d). The evidence in the record indicates that the Individual’s SAD has been a long-term concern for the Individual and remains active and unresolved. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 29(d).

Fifth, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline I if “there is no indication of a current problem.” Adjudicative Guidelines at ¶ 29(e). The continuation of the problematic behaviors that are symptomatic of the Individual’s SAD indicate that the Individual’s problem is still current. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 29(e).

I therefore find that the Individual has not provided adequate evidence to mitigate and resolve the security concerns raised under Guideline I.

## **VI. Conclusion**

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines G and I. After considering all of the evidence, both favorable and unfavorable, in a commonsense manner, I find that the Individual has not mitigated the security concerns raised under Guidelines G and I. Accordingly, the Individual has not demonstrated that restoring his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, the Individual’s security clearance should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine  
Administrative Judge  
Office of Hearings and Appeals